

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE FOR THE TWENTIETH
JUDICIAL DISTRICT AT NASHVILLE

STATE OF TENNESSEE,
Petitioner,

v.

ECKERD CORPORATION, a Delaware
corporation,

Respondent.

PETITION

Paul G. Summers, Attorney General and Reporter for the State of Tennessee, (hereinafter "Attorney General"), files this Petition pursuant to Tenn. Code Ann. § 47-18-107 of the Tennessee Consumer Protection Act of 1977 (hereinafter "the Act"), and would respectfully show the Court as follows:

1. The Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance (hereinafter "the Division") and the Attorney General, acting pursuant to the Act, have investigated certain acts and practices of Eckerd Corporation of Largo, Florida (hereinafter, "Respondent" or "Eckerd"). Upon completion of such investigation, the Division has determined that certain of Respondent's acts and practices, more specifically described in Paragraph 2 of this Petition, constitute unfair and deceptive acts or practices affecting the conduct of trade or commerce in the State of Tennessee in violation of Tenn. Code Ann. § 47-18-104(a), and further that such acts and practices constitute violations of Tenn. Code Ann. §§ 47-18-104(a) (b)(5), (b)(12) and (b)(27).

2. Based upon their investigation of Respondent, the Division and the Attorney General allege the following:

(A) For many years, Respondent has been in the business of operating more than 30

pharmacies across the state of Tennessee. Those pharmacies fill and dispense prescriptions for Tennessee consumers.

(B) In the past when filling prescriptions for Tennessee consumers, in some of those situations, the Respondent failed to provide the consumer with their full prescription but billed the consumer, third party payors or government insurers for the full prescription. In some cases, the consumer was not informed that their prescription was shorted and therefore, the consumer did not return to receive the additional medication. In other cases, the consumer was informed but failed to pick up the additional medication.

(C) As part of the process of obtaining a prescription from Eckerd, consumers were required by Eckerd to sign a log form that indicated that the consumer had received the full prescription even if such was not the case. These logs were used by Eckerd to confirm for insurance and government audits that consumers actually received the prescriptions that were billed to those entities.

(D) Respondent's conduct constitutes unfair and deceptive acts or practices.

3. Respondent denies the allegations of Paragraph 2 (B-D).

4. Upon completion of its investigation, the Division requested the Attorney General to negotiate, and if possible to accept, an Assurance of Voluntary Compliance in accordance with the provisions set forth in Tenn. Code Ann. § 47-18-107.

5. The Attorney General entered into negotiations with Respondent and the parties have agreed to, and the Division has approved, the attached Assurance of Voluntary Compliance.

6. In accordance with the provisions of Tenn. Code Ann. § 47-18-107(c), the execution, delivery and filing of the Assurance does not constitute an admission of prior violation of the Act.

7. The Division, the Attorney General, and the Respondent, the parties who are primarily interested in the matters set forth in Paragraph 2 hereof, have jointly agreed to the Assurance of Voluntary Compliance and join in its filing.

PREMISES CONSIDERED, Petitioner prays

1. That this Petition be filed without cost bond pursuant to the provisions of Tenn. Code Ann. §§ 20-13-101 and 47-18-116.

2. That the Assurance of Voluntary Compliance be approved and filed in accordance with the provisions of the Tennessee Consumer Protection Act of 1977.

